

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

GEORGE REYNOSO,	)	
	)	
Petitioner,	)	
v.	)	Civil Action
	)	No. 10-3350-CV-S-DGK-H
MARTY C. ANDERSON, Warden, United	)	
States Medical Center for Federal Prisoners,	)	
	)	
Respondent.	)	

**REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Petitioner, an inmate confined in the United States Medical Center for Federal Prisoners, has petitioned this Court for a writ of habeas corpus in which he challenges actions of the Bureau of Prisons [“BOP”]. The petition has been referred to the undersigned for preliminary review under 28 U.S.C. § 636(b). Because petitioner has failed to exhaust administrative remedies, it will be recommended that he be denied leave to proceed in forma pauperis.

After a Show Cause Order was entered, the United States filed its response. Counsel for petitioner filed a Motion to Withdraw. Thereafter, petitioner was granted an opportunity to file a pro se traverse.

As grounds for relief in habeas corpus, petitioner contends that staff members at the Medical Center assaulted him. According to respondent, petitioner has failed to properly exhaust administrative remedies on the issues raised in this petition regarding an alleged assault.

It is well-settled law that an inmate must exhaust administrative remedies prior to seeking habeas corpus relief. See Leighnor v. Turner, 884 F.2d 385 (8<sup>th</sup> Cir. 1989); Willis v. Ciccone, 506 F.2d 1011 (8<sup>th</sup> Cir. 1974). According to the attorney advisor at the Medical Center, petitioner did

not properly exhaust administrative remedies because he failed to attempt informal resolution before filing an administrative remedy, nor did he refile an appeal to the Regional Director or to the General Counsel. Because a review of the record indicates that petitioner has failed to properly exhaust administrative remedies, it must be recommended that the petition herein for a writ of habeas corpus be dismissed without prejudice.

Counsel for the petitioner has filed a Motion to Withdraw. Because there are no issues presented for which relief is appropriate, the motion is granted.<sup>1</sup>

For the foregoing reasons, it is, pursuant to the governing law and in accordance with Local Rule 22 of the United States District Court for the Western District of Missouri,

RECOMMENDED that petitioner be denied leave to proceed in forma pauperis, and that the petition herein for a writ of habeas corpus be dismissed without prejudice.

/s/ James C. England  
JAMES C. ENGLAND  
United States Magistrate

Date: 2/4/11

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<sup>1</sup> Petitioner has 14 days to file exceptions to the Report and Recommendation of the United States Magistrate Judge.